

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

HOBART CAPPS)	
Claimant)	
VS.)	
)	Docket No. 210,001
CITY OF PARK CITY)	
Respondent)	
AND)	
)	
EMPLOYERS MUTUAL CASUALTY COMPANY)	
Insurance Carrier)	

ORDER

Claimant appeals from the preliminary hearing Order entered by Nelsonna Potts Barnes on October 29, 1996.

ISSUES

The sole issue to be considered is whether claimant has established that he gave timely written claim as required by K.S.A. 44-520a. The Administrative Law Judge found that claimant had not given timely written claim and claimant appeals.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Claimant, who works as a police officer for the respondent City of Park City, was struck in the left eye on March 31, 1994, while subduing a suspect. He immediately reported the injury to his supervisor. He also sat down with his supervisor and filled out the Employer's Report of Accident and a form provided by a separate insurance company. On each, he described the circumstances of the injury. Claimant did not, at that time, consider himself in need of medical treatment or temporary total disability benefits. Claimant continued to work without difficulty from the accident until September of 1995, when he went to renew his driver license. At that time he had discovered a problem with his vision

in the left eye. His treating physician stated that it is "likely the blow to the eye in 1994 caused a slowly advancing cataract to begin."

The Appeals Board finds the form completed immediately following the injury satisfied the written claim requirements. Claimant testified that he sat with his supervisor to complete the forms. He also testified that he believed that the documentation was to notify his employer that he had a job-related injury in case there was a need for medical treatment or further examination. Under the particular circumstances of this case the Appeals Board finds this document to satisfy the written claim requirements. The decision by the Administrative Law Judge on this issue is, therefore, reversed. The case is remanded to the Administrative Law Judge for further decision and proceedings including the decision regarding whether the current injury arose out of and in the course of employment and whether claimant is in need of medical treatment.

WHEREFORE, the Appeals Board finds the Order of Administrative Law Judge Nelsonna Potts Barnes dated October 29, 1996, should be, and the same is hereby, reversed and remanded for further proceedings.

IT IS SO ORDERED.

Dated this ____ day of January 1997.

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
Edward D. Heath, Jr., Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director